



June 2, 2015

State Representative Kurt Heise
Chairman, Criminal Justice Committee
Anderson House Office Building
124 North Capitol Avenue
P.O. Box 30014
Lansing, MI 48909-7514

Re: HB 4420 Position: Support
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Dear Chairman Heise:

The Sentencing Project, a national criminal justice research and advocacy organization, applauds House Bill 4420, for its fair approach to addressing Michigan's harsh sentencing laws. House Bill 4420 is a measure that would restore appropriate judicial discretion sentencing to certain sentencing decisions.

Under current law, Michigan's felony firearm statute requires a consecutive mandatory sentence of two years for possessing a firearm while committing a felony; this provision is a considerable exception to Michigan's indeterminate sentencing structure and counters normative judicial practices that authorize most sentences to run concurrently. HB 4420 would authorize indeterminate sentencing, allow for inclusion of the sentencing option on the sentencing guidelines grid, and restore judicial discretion as to whether the sentence would be consecutive or concurrent.

Overview

Michigan operates the seventh largest prison system in the nation, and is one of four states in the U.S. that spends more on prisons than on higher education.¹ Michigan's prison population began to boom in the 1970s, rising from 10,855 in 1975 to a high of 51,577 at the end of 2006. With 441 people in prison per 100,000 residents, Michigan maintains the third highest incarceration rate in the Midwest.

HB 4420 was adopted during the "get-tough" period that resulted in a range of changes in policy and practices that contributed to increasing the state's prison population. Other prison population drivers include the elimination of "good time" credits to reduce sentence lengths and severe mandatory minimum drug laws.

Certainty not Severity to Achieve Public Safety

To meet public safety goals, persons who perceive that sanctions are more certain tend to be less likely to engage in criminal activity. The support for adopting mandatory prison sentences was based on the argument that locking up people for certain periods of time would enhance public safety. From this view, putting people in prison for years would prevent crime by incapacitating offenders and deterring

¹ Sabol, William J., Heather C. West, and Matthew Cooper. (December 2009) "Prisoners in 2008." Washington, DC: Bureau of Justice Statistics; PEW Center on the States. (February 2008) "One in 100: Behind Bars in America 2008." Philadelphia, PA: Pew Charitable Trusts.

would-be-offenders. However, research on the deterrent effects of harsher sentences fails to support these assertions.²

HB 4420 has been introduced as a solution to Michigan's get-tough sentencing approach because defendants who otherwise would have been sentenced to probation have been incarcerated due to the nuances of the state's criminal code. Deterrence research has found that there is an increased likelihood that persons who pose a lower-risk to public safety will be more negatively affected by incarceration.³ Among low-risk offenders, those who spent less time in prison were less likely to recidivate than low-risk offenders who served longer sentences.⁴ Public safety strategies that reinforce experiences among justice involved persons to maintain their ties to family, employers, and their community, have demonstrated lower rates of recidivism.⁵

Michigan Lawmakers Revisiting “Get-Tough” Sentencing Policies

HB 4420 would continue state lawmakers' efforts to address the drivers of increased rates of incarceration. In recent years, legislative reforms have provided judges with more discretion to sentence people in need of substance abuse to treatment, and allowed people sentenced under the harshest drug laws to be considered for parole. These reforms brought immediate relief to the state's crowded prison system, and continue to reduce the share of state prison beds occupied by people convicted of drug crimes to one of the lowest levels in the nation.⁶ The Sentencing Project found that Michigan's prison population declined by 15.3% between 2006 and 2013.⁷

The Sentencing Project urges members of the House Criminal Justice Committee to vote in favor of HB 4420. Restoring judicial discretion will improve fairness in the criminal justice system and enhance the ability of practitioners to determine appropriate sentences that meet public safety goals.

Sincerely,



Nicole D. Porter
Director of Advocacy

cc: House Criminal Justice Committee

² Anthony Doob and Cheryl Webster, “Sentence Severity and Crime: Accepting the Null Hypotheses,” *Crime and Justice*, 30:143-195, 2003.

³ Paul Gendreau, Claire Goggin, and Francis T. Cullen, “The Effects of Prison Sentences on Recidivism,” Ottawa, Ontario, Canada: Public Works and Government Services Canada, 1999.

⁴ Lin Song and Roxanne Lieb, “Recidivism: The Effect of Incarceration and Length of Time Served,” Olympia, WA: Washington State Institute of Public Policy, 1993

⁵ In 2000, the Urban Institute (UI) launched an ongoing investment in prisoner reentry research to better understand the pathways of successful reintegration, the social and fiscal costs of current policies, and the impacts of incarceration and reentry on individuals, families, and communities. See Baer, D. et. al (2006). “Understanding the Challenges of Prisoner Reentry: Research Findings from the Urban Institute’s Prisoner Reentry Portfolio.” Urban Institute, Justice Policy Center. Washington, DC.

⁶ Judith Greene and Marc Mauer. (2009) “Downscaling Prisons: Lessons from Four States” Washington, DC: The Sentencing Project.

⁷ The Sentencing Project. (April 2015) “U.S. Prison Population Trends: Broad Variation among States in Recent Years” Washington, DC: The Sentencing Project.